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RAJ K. DHANDA

August 22, 2018

ALB 2718 08/22/18 City Manager

H. Theodore Cohen, Chairman  
Cambridge Planning Board  
344 Broadway  
Cambridge, Massachusetts 02139

**Re: Opposition to Proposed Recreational Marijuana Dispensary at 98 Winthrop Street, Harvard Square, Cambridge, MA Operated by Healthy Pharms, Inc. & Pending Litigation in U.S.D.C. Massachusetts and Superior Court, Middlesex County Over Existing Medical Marijuana Facility**

To the City of Cambridge Planning Board:

As an active property owner in Harvard Square for nearly fifteen years, our entities have contributed millions of dollars to the Cambridge community. Our tenants have engaged the neighborhood and are deeply concerned about preserving its character and ensuring economic prosperity, amongst other interests. We desire to preserve the health, safety, and general welfare of this unique area. We are especially concerned with the opening of a recreational marijuana dispensary and desire to protect our community youth from the scourge that this illicit activity presents.

We have been given notice of the intent by Healthy Pharms, Inc. to seek a special permit for the operation of a retail recreational marijuana facility at 98 Winthrop Street in Harvard Square—the same location where Healthy Pharms currently operates a medical marijuana dispensary. We, along with many of our tenants, neighbors, patrons, children, abutters, and concerned citizens vociferously oppose the siting of a recreational marijuana facility at 98 Winthrop Street for the following reasons, including, but not limited to:

1. Improper Location & Illegality.

a. *Siting a recreational marijuana facility at 98 Winthrop St. is in violation of federal law.*

- i. 21 U.S. Code § 860 - Distribution or manufacturing in or near schools and colleges—is a federal criminal statute that makes it unlawful for someone like Healthy Pharms to engage in “distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility”.

- ii. Marijuana is deemed to be a Schedule I substance under the Controlled Substances Act, 21 U.S.C. ch 13 § 801 et seq., which means there is no lawful use of said substance.
    - iii. 98 Winthrop Street is located within 1000 feet of Harvard University, several daycare centers, English language schools, a Kaplan test preparation center frequented by minors and young adults, houses of worship, and a playground in the form of historic Winthrop Park where children can often be seen playing cornhole, and other games.
    - iv. Violating a criminal statute is per se a public nuisance.
  - b. *There Will Be A Measurable Increase in Recreational Marijuana Dispensary Customers Significantly Increasing Traffic In An Already Congested Portion of Harvard Square*
    - i. Parking is extremely limited in Harvard Square and adding a recreational component to an already operating medical marijuana facility will be unmanageable;
    - ii. Recreational Marijuana Customers are more apt to abuse regulations surrounding non-use of cannabis in public, and even present a danger to the community through using cannabis while operating a motor vehicle.
2. Pending Civil RICO Litigation & Special Permit Appeal
- a. *Cambridge Should Not Allow Healthy Pharms To Proceed While Litigation Is Pending*
    - i. There is a pending appeal of the Healthy Pharms Special Permit to operate a licensed medical marijuana dispensary at 98 Winthrop Street. See *Crimson Galeria et al v. Healthy Pharms et al.*, 1781-cv-01356 (Middlesex Superior Court)
    - ii. There is a pending case in federal court alleging federal preemption and civil RICO claims against Healthy Pharms, Inc. for operation of a marijuana dispensary at 98 Winthrop Street (1:17-cv-11696-ADB, U.S.D.C. Massachusetts).
3. Damage to Property Values and Community Standards
- a. *A World-Renowned Real Estate Appraiser and Economist Concludes That Marijuana Dispensaries Are Stigmatized Facilities That Result In The Diminution Of Property Values*
    - i. Webster A. Collins, MAI, CRE, FRICS of CBRE has conducted an extensive analysis of the impact of marijuana dispensaries on neighboring property values and concluded that the medical marijuana dispensary at 98 Winthrop Street has resulted in a diminution of my four properties in Harvard Square to the tune of roughly \$28.5 Million. The addition of a recreational component will further exacerbate this damage calculus.
    - ii. Peter Angelides, Ph.D., a professor at the Wharton School, University of Pennsylvania and Principal at Econsult Corporation has performed comparative

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analysis and concluded that properties surrounding marijuana facilities in other communities (such as Salem, MA) have decreased.

***b. An Acoustical Engineer Has Determined That The Existing Medical Marijuana Facility Violated The City of Cambridge Sound Ordinance***

- i. David A. Towers, P.E., Principal, Cross-Spectrum Acoustics, Inc., a national acoustical engineering firm specializing in acoustical measurement and remediation conducted a study over a 56 hour period from February 20<sup>th</sup> to February 22, 2018 and compared the measurement results with applicable local and state noise regulations. On average, the lot-line noise levels were measured to exceed the Cambridge Municipal Noise Ordinance limits for approximately 14 percent of the time.
- ii. Neighboring property owners should not have to endure increased noise from the addition of an increased customer volume stemming from a recreational facility.

Healthy Pharms intent to open a recreational marijuana facility would exacerbate traffic, acoustical, character, and noise issues in Harvard Square, but is also patently in violation of federal law. Failure to stop this effort will endanger children, impact our property values, and exacerbate the drug problem for a population that is not suffering from terminal diseases or in dire need of innovative treatments. Dispensary owners must consider the siting of their facilities.

Very truly yours,



Raj K. Dhanda

*A concerned citizen, business/property owner, and proud  
Cambridge preservationist*

cc:

Valerio Romano, Esq., Vicente Sederberg LLC

Paul Overgaag, Healthy Pharms, Inc.

Nathaniel Averill, Healthy Pharms, Inc.

Hon. Joseph P. Kennedy, III, United States Congressman, Massachusetts, 4<sup>th</sup> District

Hon. Charles D. Baker, Jr., Governor, Commonwealth of Massachusetts

Hon. Marc C. McGovern, Mayor, City of Cambridge

Paul S. Kawai, Office of the City Solicitor, City of Cambridge

Cardinal Sean O'Malley, OFM Cap, Archbishop of Boston

Jeffrey C. Riley, Commissioner of Elementary & Secondary Education, MA Dept. of Education

Lawrence S. Bacow, President, Harvard University

William F. Lee, Esq., Senior Fellow, Harvard Corporation

Rakesh Khurana, Dean, Harvard College

Andrew S. Rosen, Chairman & CEO, Kaplan, Inc.

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Andrew E. Lelling, Esq., U.S. Attorney, Commonwealth of Massachusetts  
Hon. Jefferson B. Sessions, III, U.S. Attorney General  
Superintendent Steven DeMarco, Special Investigations Unit, City of Cambridge Police Dept.  
Brian D. Boyle, Special Agent In-Charge, U.S. Drug Enforcement Agency, NE Field Division  
Scott Gottlieb, M.D., Commissioner of Food and Drugs, U.S. Food & Drug Administration  
Hon. Christopher Wray, Director, Federal Bureau of Investigation  
Pebble Gifford, Community Activist  
Prof. Suzanne Blier, Harvard University  
Rachna Balakrishna, Esq., Mason & Murphy, Inc.  
Alvin S. Nathanson, Esq. and Scott A. Schlager, Esq., Nathanson & Goldberg, P.C.  
Brian Barnes, Esq., Cooper & Kirk PLLC  
Ranjit Singanayagam, City of Cambridge ISD, Building Commissioner  
Louis A. DePasquale, City Manager, City of Cambridge  
Richard L. Friedman, President & CEO, Carpenter & Company (Charles Hotel)  
Eric D. Schlager, CEO, The Bulfinch Companies, Inc.  
Peter A. Palandjian, CEO, Intercontinental Real Estate Corporation  
Byan Koop, Executive Vice-President, Boston Properties (University Place)  
Gerald S. Chan, Co-Founder, Morningside Group  
William J. Poorvu, President, Investment Resource Group, Inc.  
Webster A. Collins, MAI, CRE, FRICS, EVP, CB Richard Ellis-N.E. Partners, LP  
J. Alexander Douglas, CEO, Staples, Inc.  
Randy Garutti, CEO, Shake Shack  
Adam Hirsch, Owner, The Curious George Store, Harvard Square  
Denise Jillson, Executive Director, Harvard Square Business Association  
Norton S. Remmer, P.E., Remmer Consulting  
F. Giles Ham, P.E., Managing Principal, Vanasse & Associates, Inc.  
Peter Angelides, Ph.D., AICP, Econsult Solutions, Inc.  
A. Eden Evins, MD, MPH, Cox Family Professor of Psychiatry, Harvard Medical School,  
Director, Massachusetts General Hospital Center for Addiction Medicine